

Effective 5/12/2015

Superseded 5/10/2016

62A-15-103 Division -- Creation -- Responsibilities.

- (1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.
- (2) The division shall:
 - (a)
 - (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;
 - (ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;
 - (iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;
 - (iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;
 - (v) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;
 - (vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;
 - (vii) evaluate the effectiveness of programs described in Subsection (2);
 - (viii) consider the impact of the programs described in Subsection (2) on:
 - (A) emergency department utilization;
 - (B) jail and prison populations;
 - (C) the homeless population; and
 - (D) the child welfare system; and
 - (ix) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;
 - (b)
 - (i) collect and disseminate information pertaining to mental health;
 - (ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;
 - (iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and
 - (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that all individuals receiving services through local mental health authorities or the Utah State Hospital be informed about and, if desired, provided assistance in completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;
 - (c)
 - (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;
 - (ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

- (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;
- (iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;
- (v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;
- (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;
- (vii) examine expenditures of any local, state, and federal funds;
- (viii) monitor the expenditure of public funds by:
 - (A) local substance abuse authorities;
 - (B) local mental health authorities; and
 - (C) in counties where they exist, the private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authorities;
- (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;
- (x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;
- (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:
 - (A) a statewide comprehensive continuum of substance abuse services;
 - (B) a statewide comprehensive continuum of mental health services;
 - (C) services result in improved overall health and functioning;
 - (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;
 - (E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and
 - (F) appropriate expenditure of public funds;
- (xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance abuse programs and services and each local mental health authority's contract with its provider of mental health programs and services to ensure compliance with state and federal law and policy;
- (xiii) monitor and ensure compliance with division rules and contract requirements; and
- (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;
- (d) assure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;
- (e) require each local substance abuse authority and each local mental health authority to submit its plan to the division by May 1 of each year;
- (f) conduct an annual program audit and review of each local substance abuse authority in the state and its contract provider and each local mental health authority in the state and its contract provider, including:

- (i) a review and determination regarding whether:
 - (A) public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; and
 - (B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance abuse and mental health programs and services; and
- (ii) items determined by the division to be necessary and appropriate; and
- (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- (h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:
 - (i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;
 - (ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and
 - (iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;
- (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance abuse and mental health treatment to individuals involved in the criminal justice system, including:
 - (i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;
 - (ii) basing the certification process on the standards developed under Subsection (2)(h) for the treatment of individuals involved in the criminal justice system; and
 - (iii) the requirement that all public and private providers of treatment to individuals involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;
- (j) collaboration with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:
 - (i) pretrial services and the resources needed for the reduced recidivism efforts;
 - (ii) county jail and county behavioral health early-assessment resources needed for offenders convicted of a class A or class B misdemeanor; and
 - (iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;
- (k)
 - (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(h), including recidivism

- data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and
 - (ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;
 - (l) in its discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(h); and
 - (m) annually, on or before August 31, submit the data collected under Subsection (2)(j) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.
- (3)
- (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.
 - (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract with its provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.
- (4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.
- (5) In carrying out its duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.
- (6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.
- (7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:
- (a) the use of public funds;
 - (b) oversight responsibilities regarding public funds; and
 - (c) governance of substance abuse and mental health programs and services.
- (8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.
- (9) If a local substance abuse authority contacts the division under Subsection 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:
- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
 - (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

